

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition :
of :
ANDREW GENETT :
for Revision of a Determination or for Refund of :
Sales and Use Taxes under Articles 28 and 29 of the Tax :
Law for the Periods March 1, 1994 through February 29, :
1996, June 1, 1998 through August 31, 1998, and :
December 1, 1998 through February 28, 1999. :

ORDER
DTA NOS. 819083
AND 819084

In the Matter of the Petition :
of :
ANDREW GENETT :
for Redetermination of a Deficiency or for Refund of :
New York State and New York City Personal Income Tax :
under Article 22 of the Tax Law and the Administrative :
Code of the City of New York for the Year 1999. :
:

Petitioner, Andrew Genett, 220 Rodney Street, Glen Rock, New Jersey 07459, filed a petition for revision of a determination or for refund of sales and use taxes under Articles 28 and 29 of the Tax Law for the periods March 1, 1994 through February 29, 1996, June 1, 1998 through August 31, 1998, and December 1, 1998 through February 28, 1999 and a petition for redetermination of a deficiency or for refund of New York State and New York City personal income tax under Article 22 of the Tax Law and the Administrative Code of the City of New York for the year 1999.

The Division of Tax Appeals issued a Determination dated November 24, 2004 in this matter, granting the two petitions and thereby canceling (i) three determinations of additional sales and use tax, plus penalty and interest, by notices of determination L-019809388 through L-019809390 and (ii) four deficiencies asserting penalty due by notices of deficiency L-019809391 through L-019809394.

On January 26, 2005, petitioner filed an application for costs pursuant to Tax Law § 3030 with the Division of Tax Appeals. The Division of Taxation filed a response in opposition on March 9, 2005.

Based upon petitioner's application for costs and attached documentation and the Division of Taxation's response, and all pleadings and documents submitted in connection with this matter, Frank W. Barrie, Administrative Law Judge, rendered an order dated April 11, 2005 granting petitioner's application for costs and fees in the amount of \$975.00 conditioned upon the filing of an affidavit of petitioner noting his net worth and listing his primary assets and liabilities, so as to establish that his net worth was not in excess of \$2,000,000.00 *within 30 days of the order*.

Notice of the administrative law judge's order dated April 11, 2005 was served on petitioner Andrew Genett, and petitioner's attorney, Nathan B. Sloan, Esq., by certified mail on April 14, 2005.

Petitioner has failed to comply with the condition noted above for the granting of his application for costs and fees.

Wherefore, it is hereby ordered that petitioner's application for costs is denied.

DATED: Troy, New York
June 9, 2005

/s/ Frank W. Barrie
ADMINISTRATIVE LAW JUDGE